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Social Security: Mandatory Coverage of New State and Local Government Employees

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Summary

Social Security covers about 94% of all workers in the United States. Most of the remaining 6% of non-covered workers are public employees. About one-fourth of state and local government employees are not covered by Social Security for various historical and other reasons. The 1935 Social Security Act did not extend coverage to state and local government workers. Since the 1950s, Congress has passed laws to allow state and local government employees who have public pensions to elect Social Security coverage through employee referendums. In 1990, Congress made Social Security coverage mandatory, starting in July 1991, for most state and local government employees who are not covered by an alternative public pension plan.

Some have proposed extending mandatory Social Security coverage to all newly hired public employees. Recently, this proposal was included in the recommendations of the Bipartisan Policy Center's Debt Reduction Task Force and the National Commission on Fiscal Responsibility and Reform. According to the Social Security Administration (SSA), mandatory Social Security coverage of newly hired state and local government workers would close an estimated 8% to 9% of Social Security's projected average 75-year funding shortfall (the greatest positive financial effect would occur during the initial period following implementation) and extend Social Security trust fund solvency by 2 to 3 years. The Congressional Budget Office estimates that the proposal would increase net federal revenues by $24 billion over 5 years and $96 billion over 10 years.

Supporters of mandatory Social Security coverage maintain that it would result in better benefit protections for workers and their families through the provision of dependents' and survivors' benefits and full cost-of-living adjustments under Social Security. Opponents argue that mandatory coverage would not necessarily provide better benefit protections compared with existing non-covered pension plans; the net effect on a worker's total benefits would depend in part on how state and local governments modify their existing pension plans in response to mandatory coverage. Moreover, Congress could enact changes to the Social Security contribution and benefit structure that result in higher payroll taxes and lower benefits for current workers in response to Social Security's projected long-range funding shortfall. Supporters point out that, unlike state and local pension plan coverage, Social Security coverage is portable (i.e., coverage is transferrable as a worker moves from job to job). Mandatory Social Security coverage would prevent gaps in coverage that can adversely affect workers, especially those who become disabled. Some supporters of mandatory coverage argue that Social Security reduces poverty among retired and disabled workers, spouses, dependent children, and the survivors of deceased workers. They argue that all workers should share in providing this poverty reduction, which has national benefits.

Many state and local government employers and employees oppose mandatory Social Security coverage, even if it were extended only to newly hired employees. State and local governments are concerned that mandatory coverage could increase pension system costs significantly at a time when many state and local pension systems are struggling financially. The extent of cost increases would depend on how states and localities adjust their existing pension plans in response to mandatory Social Security coverage. Some state and local government employees and advocacy groups express concern that existing non-covered pension plans, including those designed for specific categories of workers such as fire fighters and police officers, could be "undermined" if Social Security coverage were mandated.

Contents

Introduction 1
Current Law 1
Legislative History 2
Social Security Coverage by State 3
Recommendations of Recent Deficit Reduction Groups 5
Issues to Consider 6
Projected Impact on the Social Security Trust Funds 6
Projected Impact on Federal Revenues 7
Benefit Protections for Workers and Their Families 8
FERS System Accommodations for Public Safety Workers and Certain Other Employment Categories Transferred from CSRS in 1984 11
Portability 11
WEP and GPO Provisions 12
WEP 12
GPO 12
Potential Impact on State and Local Pension Plans 13
State and Local Pension Plans and Funding Status 15
State Administrative Costs and Legal Issues 17
Equity Considerations 18
Conclusion 19

Tables

Table 1. Social Security Coverage of State and Local Government Employees in 2008 3
Table 2. Projected Impact on the Social Security Trust Funds of Covering Newly Hired State and Local Government Employees 7
Table 3. Projected Revenue Impact of Extending Social Security Coverage to State and Local Government Employees Hired After December 31, 2011 8
Table 4.State and Local Pension Plans in 2007 16
Table 5.Distribution of State and Local Pension Plan Funding Ratios in 2009 16

Contacts

Author Information 19

Introduction

Across the United States, about 27.5% of state and local government employees (about 6.6 million persons) work in positions that are not covered by Social Security. Coverage rates vary considerably across states.

Congress made Social Security coverage mandatory, starting in July 1991, for most state and local government employees who were not already covered by public pension plans. Under current law, public employees who have a pension plan, but who are not covered by Social Security, may hold a referendum on whether to elect Social Security coverage. Once Social Security coverage is provided, it generally cannot be terminated, and all future employees in covered positions are required to participate in Social Security.

Proposals to mandate Social Security coverage for all state and local government employees hired in the future have been part of the Social Security policy debate for many years. Under such a proposal, all state and local government positions eventually would be covered by Social Security. This report describes current law, provides some historical background, and discusses some of the potential advantages and disadvantages of mandating Social Security coverage for newly hired state and local government employees from a variety of perspectives.

Current Law

Social Security coverage is extended to state and local government employees through "Section 218 Agreements" between a state and the Social Security Administration (SSA).[1] All states, as well as Puerto Rico and the Virgin Islands, have a voluntary Section 218 Agreement with SSA.[2] A state's Section 218 Agreement details which state and local government positions are covered by Social Security and Medicare. Each state, as well as Puerto Rico and the Virgin Islands, designates a State Social Security Administrator who is responsible for administering, preparing modifications for, and monitoring coverage of, its subdivisions under the state's Section 218 Agreement. The Administrator, who is a state employee, serves as a bridge between state and local public employers and SSA.[3]

Coverage under Section 218 Agreements differs greatly from state to state. For example, within a state, teachers in one county may be covered under Social Security, whereas teachers in the neighboring county may not be covered. The State Social Security Administrator is the main resource for information about Social Security and Medicare coverage and reporting issues for state and local government employers and employees.

Section 218 Agreements cover positions, not individuals. If the government position is covered by Social Security and Medicare under a Section 218 Agreement, then any employee (current or future) filling that position is subject to Social Security and Medicare payroll taxes.

[1] These agreements are authorized by Section 218 of the Social Security Act.

[2] Approximately 60 interstate instrumentalities also have Section 218 Agreements with SSA. An interstate instrumentality is an independent legal entity organized by two or more States to carry out one or more governmental functions such as police power, taxing power and/or power of eminent domain.

[3] A roster of State Social Security Administrators can be found at http://www.ncsssa.org/statessadminmenu.html. For more on the management of state Section 218 Agreements, including modifications to such agreements, see U.S. Government Accountability Office, *Social Security Administration: Management Oversight Needed to Ensure Accurate Treatment of State and Local Government Employees*, GAO-10-936, September 2010, http://www.gao.gov/new.items/d10938.pdf.

Coverage is extended to groups of employee positions known as "coverage groups;" coverage may not be extended on an individual basis. Various laws and regulations govern how coverage may be extended via employee referendums. All states are authorized to use a majority vote referendum process, and 23 states also are authorized to use a divided vote referendum process created in 1956 (see below). Most often, state governments allow their subdivisions (e.g., a school board) to decide whether to hold a referendum on coverage.

Generally, a Section 218 Agreement may be modified to increase, but not reduce, the extent of coverage. With certain exceptions, once Social Security coverage is provided, it cannot be terminated, and all future employees in covered positions are required to participate in Social Security.

Legislative History

The 1935 Social Security Act did not extend Social Security coverage to state and local government workers. In 1950, Congress added Section 218 to the Social Security Act to allow all 50 states, Puerto Rico, and the Virgin Islands to elect Social Security coverage for certain state and local government employees.[4] In 1954, Congress extended voluntary coverage to employees who were already covered by pension plans, effective starting in 1955, if a majority of employees who were members of a pension system voted in favor of Social Security coverage.[5] Further amendments in 1956[6] permitted certain states to split state or local retirement systems into "divided retirement systems" based on groups of employees that voted for Social Security coverage and groups of employees that voted against Social Security coverage.[7] Currently, 23 states are authorized to operate a divided retirement system.[8]

Until April 1983, public employers could opt in and out of the Social Security program. In 1983, legislation prohibited public employees from withdrawing from the Social Security program once they are in it.[9] The state of California challenged the 1983 law, however the Supreme Court rejected California's arguments.[10]

In 1984, Congress extended Social Security coverage to many groups that had not been covered previously, including many state and local government employees, Members of Congress, and federal civilian employees hired on or after January 1, 1984. Until 1984, federal employees were not covered by Social Security, but instead participated in the Civil Service Retirement System.[11]

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[4] Social Security Act Amendments of 1950, P.L. 81-734, §106.

[5] Social Security Amendments of 1954, P.L. 83-761, §101(h)(2).

[6] Social Security Amendments of 1956, P.L. 84-880, §104(e).

[7] Under a divided retirement system, some positions are covered by Social Security and some positions are not covered. When a divided retirement group votes to elect Social Security coverage, coverage is extended only to those current employees who choose to participate in the Social Security system. Current employees who choose not to participate in Social Security may remain outside the system. However, all future employees in the group's positions are mandatorily covered by Social Security.

[8] Most recently, Kentucky and Louisiana were added to the list of states authorized to operate a divided retirement system. Statutory authority was provided under the Social Security Protection Act of 2004 (P.L. 108-203, §416). A list of states with authority to hold divided vote referendums can be found in Section 218(d)(6)(c) of the Social Security Act, and at https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001330.

[9] Social Security Amendments of 1983, P.L. 98-21, §103.

[10] Bowen v. Pub. Agencies Opposed to Social Security Entrapments, 477 U.S. 41 (1986).

[11] Federal employees hired in 1984 or later participate in the Federal Employees' Retirement System (FERS), which includes a Social Security component. For more information on FERS, see CRS Report 98-810, *Federal Employees'*

In 1990, Congress made Social Security coverage mandatory, starting in July 1991, for most state and local government employees who are not covered by an alternative public pension plan.[12]

Social Security Coverage by State

Across the United States, about 27.5% of state and local government employees (about 6.6 million persons) work in positions that are not covered by Social Security. Coverage rates vary considerably across the states, as shown in **Table 1**.

In 26 states, 90% or more of state and local government employees work in positions that are covered by Social Security. In three states, more than 95% of state and local government employees are covered by Social Security: Arizona (95.3%), New York (96.7%), and Vermont (97.9%). In two states, fewer than 5% of state and local government employees work in positions covered by Social Security: Massachusetts (4.1%) and Ohio (2.5%). States in which less than half of state and local government employees are in positions covered by Social Security include California (43.6%), Colorado (29.1%), Louisiana (27.9%), Nevada (17.6%), and Texas (47.9%).

About 70% of non-covered state and local government employees reside in seven states: California, Colorado, Illinois, Louisiana, Massachusetts, Ohio, and Texas. Almost half (48.4%) of non-covered state and local government employees reside in three states: California, Texas, and Ohio.

Table 1. Social Security Coverage of State and Local Government Employees in 2008

	State and Local Government Employees	State and Local Government Employees *With* Social Security Covered Employment		State and Local Government Employees *Without* Social Security Covered Employment	
State	**Number**	**Number**	**Percentage**	**Number**	**Percentage**
Alabama	391,900	361,600	92.3	30,300	7.7
Alaska	64,900	42,600	65.6	22,300	34.4
Arizona	387,800	369,600	95.3	18,200	4.7
Arkansas	200,200	180,600	90.2	19,600	9.8
California	2,491,000	1,085,500	43.6	1,405,500	56.4
Colorado	420,000	122,300	29.1	297,700	70.9
Connecticut	281,400	202,000	71.8	79,400	28.2
Delaware	66,400	62,400	94.0	4,000	6.0
District of Columbia	79,700	63,200	79.3	16,500	20.7
Florida	1,137,600	1,005,700	88.4	131,900	11.6
Georgia	704,500	516,000	73.2	188,500	26.8
Hawaii	115,500	80,200	69.4	35,300	30.6
Idaho	135,100	126,200	93.4	8,900	6.6

Retirement System: Benefits and Financing, by Katelin P. Isaacs.

[12] Omnibus Reconciliation Act of 1990, P.L. 101-508, §11332.

	State and Local Government Employees	State and Local Government Employees *With* Social Security Covered Employment		State and Local Government Employees *Without* Social Security Covered Employment	
State	**Number**	**Number**	**Percentage**	**Number**	**Percentage**
Illinois	971,700	530,700	54.6	441,000	45.4
Indiana	501,100	451,600	90.1	49,500	9.9
Iowa	294,100	262,400	89.2	31,700	10.8
Kansas	293,700	270,400	92.1	23,300	7.9
Kentucky	370,900	273,600	73.8	97,300	26.2
Louisiana	323,100	90,000	27.9	233,100	72.1
Maine	122,000	66,700	54.7	55,300	45.3
Maryland	465,100	420,800	90.5	44,300	9.5
Massachusetts	479,200	19,800	4.1	459,400	95.9
Michigan	758,000	666,200	87.9	91,800	12.1
Minnesota	453,700	419,400	92.4	34,300	7.6
Mississippi	255,000	234,800	92.1	20,200	7.9
Missouri	472,800	343,700	72.7	129,100	27.3
Montana	93,000	83,200	89.5	9,800	10.5
Nebraska	156,800	147,700	94.2	9,100	5.8
Nevada	158,400	27,800	17.6	130,600	82.4
New Hampshire	107,400	95,300	88.7	12,100	11.3
New Jersey	684,100	629,100	92.0	55,000	8.0
New Mexico	197,300	178,600	90.5	18,700	9.5
New York	1,750,000	1,692,900	96.7	57,100	3.3
North Carolina	706,000	647,700	91.7	58,300	8.3
North Dakota	73,100	63,700	87.1	9,400	12.9
Ohio	849,200	21,300	2.5	827,900	97.5
Oklahoma	311,000	283,700	91.2	27,300	8.8
Oregon	295,300	271,000	91.8	24,300	8.2
Pennsylvania	820,500	760,100	92.6	60,400	7.4
Puerto Rico	262,900	227,600	86.6	35,300	13.4
Rhode Island	65,400	54,500	83.3	10,900	16.7
South Carolina	380,200	352,800	92.8	27,400	7.2
South Dakota	81,000	75,200	92.8	5,800	7.2
Tennessee	492,900	445,400	90.4	47,500	9.6
Texas	1,800,700	861,700	47.9	939,000	52.1
Utah	228,600	207,600	90.8	21,000	9.2
Vermont	60,900	59,600	97.9	1,300	2.1

	State and Local Government Employees	State and Local Government Employees *With* Social Security Covered Employment		State and Local Government Employees *Without* Social Security Covered Employment	
State	**Number**	**Number**	**Percentage**	**Number**	**Percentage**
Virginia	685,800	645,700	94.2	40,100	5.8
Washington	555,300	486,800	87.7	68,500	12.3
West Virginia	157,400	144,300	91.7	13,100	8.3
Wisconsin	498,300	438,300	88.0	60,000	12.0
Wyoming	77,900	70,500	90.5	7,400	9.5
Other[a]	5,800	700	12.1	5,100	87.9
Total	**23,791,600**	**17,240,800**	**72.5**	**6,550,800**	**27.5**

Source: Data received by CRS from the Social Security Administration.

a. Includes persons employed by American Samoa, Guam, Northern Marianas and Virgin Islands.

Recommendations of Recent Deficit Reduction Groups

Mandatory Social Security coverage of newly hired state and local government employees has been recommended by recent deficit reduction groups. For example, in November 2010, the Bipartisan Policy Center's Debt Reduction Task Force, co-chaired by former Senator Pete Domenici and Dr. Alice Rivlin, recommended that all newly hired state and local government employees be covered under the Social Security system, beginning in 2020, to increase the universality of the program. In addition, the Bipartisan Policy Center recommended that state and local pension plans be required to share data with SSA until the transition is complete. The Bipartisan Policy Center noted that implementation should be delayed until 2020 to give state and local governments time to "shore up and reform their pension systems" pointing to the poor fiscal condition of state and local governments and the underfunding of public employee pensions.[13]

Similarly, in December 2010, the National Commission on Fiscal Responsibility and Reform established by President Obama recommended that all newly hired state and local government employees be covered under the Social Security system beginning in 2021. The commission noted that, as states face prolonged fiscal challenges and an aging workforce, maintaining separate retirement systems (i.e., outside of Social Security) could pose risks for plan sponsors and participants. In the commission's view, mandatory Social Security coverage could mitigate these risks, as well as a potential future bailout risk for the federal government. In addition, the commission recommended that state and local pension plans be required to share data with SSA

[13] Bipartisan Policy Center, *Restoring America's Future: Reviving the Economy, Cutting Spending and Debt, and Creating a Simple, Pro-Growth Tax System*, The Debt Reduction Task Force, Senator Pete Domenici and Dr. Alice Rivlin, Co-Chairs, November 2010, pages 19 and 79, http://bipartisanpolicy.org/sites/default/files/BPC%20FINAL%20REPORT%20FOR%20PRINTER%2002%2028%2011.pdf. For more information, see estimates of the Social Security financial effects and benefit illustrations under the plan prepared by SSA, Office of the Chief Actuary, http://www.ssa.gov/OACT/solvency/index.html.

to improve the coordination of benefits for current workers who spend part of their careers working in state and local government positions.[14]

Issues to Consider

The following discussion highlights some of the issues underlying potential advantages and disadvantages of mandatory Social Security coverage: the financial status of the Social Security system, benefit protections for workers and their families, the impact on states and localities that currently maintain pension systems outside of Social Security, and a broader social perspective.

Projected Impact on the Social Security Trust Funds

Long-range projections published by the Social Security Board of Trustees in May 2011 show that Social Security expenditures will exceed income by 16% on average over the next 75 years. Stated another way, the projected average 75-year funding shortfall is an amount equal to 2.22% of taxable payroll. The trustees project that Social Security expenditures will exceed total income (tax revenues plus interest income) starting in 2023, and that trust fund assets will be exhausted in 2036. Social Security benefits scheduled under current law can be paid in full until trust fund assets are exhausted (2036). After trust fund exhaustion, annual Social Security revenues are projected to cover about three-fourths of benefit payments scheduled under current law.[15]

SSA's Office of the Chief Actuary has estimated the impact of covering newly hired state and local government employees on the Social Security Trust Funds. These estimates are based on the intermediate assumptions of the 2010 Trustees Report, which differ somewhat from the 2011 Trustees Report. Two variations of this option are discussed below—one with an immediate implementation date (2011) and one with a delayed implementation date (2020).

[14] *The Moment of Truth: Report of the National Commission on Fiscal Responsibility and Reform*, December 1, 2010, p. 52, http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12_1_2010.pdf. For more information, see estimates of the Social Security financial effects and benefit illustrations under the plan prepared by SSA, Office of the Chief Actuary, http://www.ssa.gov/OACT/solvency/index.html.

[15] Projections are based on the intermediate assumptions of The 2011 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, May 13, 2011, http://www.socialsecurity.gov/OACT/TR/2011/. For more information on the trust fund projections, see CRS Report RL33028, *Social Security: The Trust Fund*, by Dawn Nuschler and Gary Sidor.

Table 2. Projected Impact on the Social Security Trust Funds of Covering Newly Hired State and Local Government Employees

(Based on the Intermediate Assumptions of the **2010** Social Security Trustees Report)

	Year in Which Trust Funds Are Projected to be Exhausted	**Projected 75-Year Actuarial Balance** (as a percentage of taxable payroll under current law)	**Percentage of Projected 75-Year Funding Shortfall That Would be Closed**
Current law	2037	-1.92%	
Option 1: Cover newly hired state and local government employees beginning in **2011**	2040	-1.75%	9%
Option 2: Cover newly hired state and local government employees beginning in **2020**	2039	-1.76%	8%

Source: Social Security Administration, Office of the Chief Actuary, *Provisions Affecting Coverage of Employment or Earnings*, http://www.ssa.gov/OACT/solvency/provisions/coverage.html. See options F1 (2011) and F2 (2020), respectively.

Notes: Estimates are based on the intermediate assumptions of the **2010** Trustees Report, under which the trust funds were projected to be exhausted in 2037 (compared to 2036 under the intermediate assumptions of the 2011 Trustees Report). In addition, the 75-year actuarial balance was projected to be equal to -1.92% of taxable payroll (compared to -2.22% of taxable payroll under the intermediate assumptions of the 2011 Trustees Report). The projections are expressed in terms of taxable payroll as estimated under current law, rather than taxable payroll as estimated under the proposal.

As shown in **Table 2**, mandatory Social Security coverage for newly hired state and local government employees is projected to have a net positive effect on the Social Security Trust Funds on average over the 75-year projection period. SSA's Office of the Chief Actuary estimates that, if mandatory coverage were implemented in 2011, it would close 9% of the system's projected long-range funding shortfall and extend the projected trust fund exhaustion date to 2040.[16] Similarly, if mandatory coverage were implemented in 2020, it would close 8% of the system's projected long-range funding shortfall and extend the projected trust fund exhaustion date to 2039.[17] Although mandatory coverage is projected to have a net positive effect on the Social Security Trust Funds *on average over the 75-year projection period*, the greatest positive effect with respect to Social Security's finances would occur during the initial period following implementation.[18]

Projected Impact on Federal Revenues

Mandatory coverage of newly hired state and local government employees is projected to result in a net increase in payroll tax revenues to the Social Security system. These payroll tax revenues

[16] SSA, Office of the Chief Actuary, *Provisions Affecting Coverage of Employment or Earnings*, http://www.ssa.gov/OACT/solvency/provisions/coverage.html. See option F1 (2011).

[17] SSA, Office of the Chief Actuary, *Provisions Affecting Coverage of Employment or Earnings*, http://www.ssa.gov/OACT/solvency/provisions/coverage.html. See option F1 (2020).

[18] SSA notes that the projections are expressed in terms of taxable payroll as estimated under current law, rather than taxable payroll as estimated under the proposal. See SSA, Office of the Chief Actuary, *Methodology Changes for Estimates of Provisions that Affect Social Security*, http://www.ssa.gov/OACT/solvency/provisions/updatedEstimates.html.

are credited to the Social Security Trust Funds in the form of special-issue Treasury securities, and as a result of this exchange the revenues become available in the Treasury's general fund for other government operations. A report published by the Congressional Budget Office (CBO) in March 2011, *Reducing the Deficit: Spending and Revenue Options*, provides revenue estimates for an option that would expand Social Security coverage to include all state and local government employees hired after December 31, 2011.[19] This option is projected to increase revenues by about $24 billion over 5 years (2012 to 2016) and $96 billion over 10 years (2012 to 2021).[20] CBO points out that the estimates do not include any effect on outlays during the 2012 to 2021 period, because most state and local government employees that would be hired during this period would not begin receiving benefits for many years. Beyond the 10-year projection window, although this option would increase the number of Social Security beneficiaries, CBO estimates that the additional benefit payments would be about half the size of the additional revenues.[21] Detailed annual estimates are shown in **Table 3**.

Table 3. Projected Revenue Impact of Extending Social Security Coverage to State and Local Government Employees Hired After December 31, 2011

Year	Change in Revenues (dollars in billions)
2012	$1.0
2013	2.8
2014	4.7
2015	6.6
2016	8.6
2017	10.5
2018	12.5
2019	14.4
2020	16.5
2021	18.5
2012–2016	23.7
2012–2021	96.0

Source: Joint Committee on Taxation. Estimates published in CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, p. 171, http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf.

Benefit Protections for Workers and Their Families

Some observers point out that making Social Security coverage more universal could simplify retirement planning and benefit coordination for workers who divide their careers between state

[19] CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, pp. 171-172, http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf.

[20] CBO notes that the revenue estimates include a reduction in individual income tax revenues resulting from a shift of some labor compensation from a taxable to a nontaxable form.

[21] CBO notes that most of the newly hired state and local government employees would receive Social Security benefits under current law because they may have held other covered jobs in the past or they were covered by a spouse's employment.

and local government positions and other positions. In addition, they maintain that mandatory Social Security coverage of newly hired state and local government employees would prevent gaps in pension or Social Security coverage, resulting in better retirement, survivor, and disability insurance protections for workers who move between state and local government positions and other positions.[22] For example, under Social Security Disability Insurance, a recency of work test requires the worker to have at least 20 quarters of Social Security coverage in the 40 quarters preceding the onset of disability (generally 5 years of Social Security-covered employment in the last 10 years).[23]

Supporters of mandatory coverage also point out that it could result in better benefit protections for workers and their families through the provision of dependents' and survivors' benefits under Social Security. Social Security provides dependents' and survivors' benefits that generally are not available under state and local pension plans. For example, Social Security provides spouses or former spouses a benefit equal to 50% of the worker's basic monthly benefit amount.[24] Most state and local pension plans do not provide benefits for spouses while the worker is alive.[25] In addition, Social Security provides widow(er)s a benefit equal to 100% of the deceased worker's basic monthly benefit amount.[26] Most state and local pension plans provide only modest benefits to young widow(er)s, and provide benefits for widow(er)s at retirement age only if the deceased worker elected a joint-and-survivor annuity option.[27]

In addition, supporters point out that mandatory coverage could result in better benefit protections through the provision of full cost-of-living adjustments under Social Security. Although state and local pension plans are more likely than private sector plans to provide inflation protection, state and local pension plans generally cap cost-of-living adjustments at 3%.[28]

Some observers point to the current funding status of state and local pension plans and argue that non-covered pensions may be subject to benefit reductions, or contribution increases, in future years. For example, in a recent report, CBO stated: "By any measure, nearly all state and local pension plans are underfunded, which means that the value of the plans' assets is less than their accrued pension liabilities for current workers and retirees."[29] Some view the addition of a Social

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[22] Similarly, mandatory Social Security coverage could facilitate job mobility. Unlike Social Security benefits, benefits accrued under state and local pension plans generally are not transferrable unless the person moves to another position that is covered by the same public pension system. See CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, p. 172, http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf. See also the "Portability" section of this report.

[23] Requirements vary depending on the age of the worker at the onset of disability. Other eligibility requirements apply. For more information, see CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by Umar Moulta-Ali.

[24] Under Social Security, a divorced spouse must have been married to the worker for at least 10 years to qualify for a benefit based on the worker's record.

[25] Alicia H. Munnell, *Mandatory Social Security Coverage of State and Local Workers: A Perennial Hot Button*, Center for Retirement Research, Boston College, IB Number 32, Boston, MA, June 2005, http://crr.bc.edu/images/stories/Briefs/ib_32.pdf. Hereafter cited as Munnell 2005.

[26] Benefits paid to family members based on a worker's record may be subject to reduction under the dual entitlement rule and other provisions of Social Security law. For more information, see CRS Report R41479, *Social Security: Revisiting Benefits for Spouses and Survivors*, by Alison M. Shelton and Dawn Nuschler.

[27] Munnell 2005, http://crr.bc.edu/images/stories/Briefs/ib_32.pdf.

[28] Munnell 2005, http://crr.bc.edu/images/stories/Briefs/ib_32.pdf.

[29] CBO, *The Underfunding of State and Local Pension Plans*, May 2011, p. 1, http://www.cbo.gov/ftpdocs/120xx/doc12084/05-04-Pensions.pdf.

Security benefit component to state and local pension plans as a way to provide better benefit protections for workers whose future non-covered pensions may be at risk.

The net effect on a worker's total benefits, however, would depend in part on how state and local governments modify their existing non-covered pension plans in response to mandatory coverage. Opponents argue that mandatory Social Security coverage would not necessarily result in better benefit protections for workers because state and local governments could reduce some pension benefits currently available under non-covered pension plans to keep overall pension costs down.[30] Moreover, Congress could enact changes to the Social Security contribution and benefit structure that result in higher payroll taxes and lower benefits for current workers (compared with current law) in response to Social Security's projected long-range funding shortfall.[31] In addition, state and local government employees tend to be higher-wage workers.[32] According to data from the Bureau of Labor Statistics (BLS), state and local government workers have higher hourly earnings, on average, than the rest of the population.[33] Because Social Security has a progressive benefit formula, higher-wage workers receive lower replacement rates under Social Security compared to lower-wage workers. Therefore, the potential advantages and disadvantages of mandatory Social Security coverage could depend in part on a worker's wage level.

Still others who oppose mandatory Social Security coverage maintain that, while Social Security may provide better benefit protections for some workers, others may be better off in a separate retirement system (i.e., outside of Social Security) in which eligibility rules and other plan features are tailored to workers in certain occupations. For example, public pension plans for fire fighters and police officers typically provide full pension benefits at younger ages and with fewer years of service compared to other public pension plans. In contrast to some specialized public pension plans, Social Security retired-worker benefits are available beginning at the age of 62, and benefits claimed before the full retirement age (age 65 to age 67, depending on the person's year of birth) are permanently reduced for early retirement. In addition, Social Security benefits are based on a worker's 35 highest years of earnings in covered employment. If a worker has fewer than 35 years of covered earnings, years with no earnings are counted as zeros in the benefit computation, resulting in a lower initial monthly benefit amount.[34]

Some believe that the eligibility requirements under public pension plans for certain categories of workers (e.g., fire fighters and police officers) reflect the circumstances of these occupations, such as physical demands and higher disability rates. The International Association of Fire Fighters (IAFF), for example, opposes mandatory Social Security coverage for non-covered public sector employees. The IAFF points out that an estimated 70% of all fire fighters are covered by pension plans that are separate from Social Security. In a March 2011 document, the IAFF stated that "Opponents of mandatory coverage believe that forcing all public employees

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[30] In addition, if Social Security coverage were mandated, contributions paid by workers could increase under the new public pension system. See U.S. Government Accountability Office, *Social Security: Issues Regarding the Coverage of Public Employees*, GAO-08-248T, Testimony Before the Subcommittee on Social Security, Pensions, and Family Policy, Committee on Finance, U.S. Senate, November 6, 2007, pp. 9-10, http://www.gao.gov/new.items/d08248t.pdf.

[31] For more information on the projected long-range financial status of the Social Security program, see CRS Report RL33028, *Social Security: The Trust Fund*, by Dawn Nuschler and Gary Sidor.

[32] Munnell 2005, p. 5, http://crr.bc.edu/images/stories/Briefs/ib_32.pdf.

[33] Bureau of Labor Statistics, *National Compensation Survey: Occupational Earnings in the United States, 2009*, June 2010, Bulletin 2738, Table 1, http://www.bls.gov/ncs/ocs/sp/nctb1344.pdf.

[34] For more information on the computation of a Social Security retired-worker benefit, see CRS Report R41242, *Social Security Retirement Earnings Test: How Earnings Affect Benefits*, by Dawn Nuschler and Alison M. Shelton.

into Social Security—even if it is only new hires—would undermine existing pension systems that provide superior benefits and reflect the unique circumstances of public safety work."[35]

FERS System Accommodations for Public Safety Workers and Certain Other Employment Categories Transferred from CSRS in 1984

If Congress were to mandate Social Security coverage for all newly hired state and local government employees, as it did for newly hired federal employees in the 1980s, the Federal Employees' Retirement System (FERS) could serve as an example of how to address differences between an existing non-covered pension plan and Social Security with respect to eligibility requirements (retirement age, years of service, etc.) and other features. Under FERS, for example, certain categories of workers, including federal law enforcement officers and fire fighters, accrue benefits at higher rates than other federal employees.[36]

In addition, a temporary supplemental benefit is provided under FERS for workers who retire before the age of 62, the earliest age at which a Social Security retired-worker benefit is available. The FERS supplement is available to workers who retire at the age of 55 or older with 30 or more years of service, or at the age of 60 with 20 or more years of service. The FERS supplement, however, is available to law enforcement officers, fire fighters and air traffic controllers who retire at the age of 50 or older with 20 or more years of service. The FERS supplement is equal to the estimated Social Security benefit that the person earned while employed by the federal government, and it is paid only until the person attains the age of 62, regardless of whether the person claims Social Security retired-worker benefits at the age of 62.[37]

Portability

The portability of state and local pension plans (defined benefit plans) is usually limited to positions that fall within the same public pension system. By contrast, Social Security coverage is portable among most jobs, with the exceptions of non-covered public employment and certain other non-covered positions such as election workers and household workers earning less than an annual threshold amount.

Retirement benefits from defined benefit plans are generally based on years of service and final pay. A worker who changes jobs frequently may not stay long enough in a given state or local government position to become vested in the retirement plan. Also, benefit amounts in defined benefit plans are generally based on earnings at the time the worker leaves the job, and many plans do not index earnings at departure for inflation. This may lower benefits significantly for a worker who leaves a state or local government position years before he or she retires from the workforce, or after only a few years of service. Social Security beneficiaries can move from job to job, continue to build years of service and earnings, and all covered earnings are indexed for inflation as part of the benefit computation, regardless of when the worker left covered employment.

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[35] International Association of Fire Fighters, Fire Fighters Issues Book, 112th Congress, First Session, March 2011, p. 8.

[36] Higher accrual rates also apply to Members of Congress, congressional staff and air traffic controllers. This is the case under the Civil Service Retirement System as well, which does not have a Social Security component.

[37] For more information, see CRS Report 98-810, *Federal Employees' Retirement System: Benefits and Financing*, by Katelin P. Isaacs.

WEP and GPO Provisions

Under current law, two Social Security provisions affect individuals who are receiving a pension from work that was not covered by Social Security: the windfall elimination provision (WEP) and the government pension offset (GPO).

WEP

If a worker qualifies for a Social Security *retired-worker benefit* based on fewer than 30 years of Social Security coverage and is also receiving a pension from work that was not covered by Social Security (a non-covered pension), he or she is subject to the WEP. Under the WEP, the worker's Social Security retirement benefit is computed using the windfall benefit formula, rather than the regular benefit formula, which results in a lower initial monthly benefit.[38] The amount of the reduction in the worker's Social Security retirement benefit under the WEP is phased out for workers with between 21 and 30 years of Social Security-covered employment, and it is limited to one-half the amount of the worker's non-covered pension.

The windfall benefit formula is designed to remove the unintended advantage that the regular benefit formula would otherwise provide to a worker who has less than a full career in Social Security-covered employment. The Social Security benefit formula is progressive. That is, it is structured to provide a long-term, low-wage worker with a benefit that replaces a greater percentage of his or her pre-retirement earnings (i.e., a higher replacement rate). The benefit formula, however, does not distinguish between a long-term, low-wage worker and a high-wage worker with a relatively short career in Social Security-covered employment.[39] Both of these workers receive the advantage of Social Security's progressive benefit formula. The windfall benefit formula is designed to remove this unintended advantage for workers who have less than a full career in Social Security-covered employment (sometimes with high wages) because they also worked in non-covered employment and receive a pension based on non-covered work.[40]

GPO

If a person qualifies for a Social Security *spousal benefit* and is receiving a non-covered pension, he or she is subject to the GPO. Under the GPO, a person's Social Security spousal benefit is reduced by two-thirds the amount of his or her non-covered pension. The GPO is intended to replicate the dual entitlement rule, which affects persons who qualify for both a Social Security retired-worker benefit and a Social Security spousal benefit. Under the dual entitlement rule, a person's Social Security spousal benefit is reduced by 100% of the amount of his or her Social Security retired-worker benefit.[41]

The WEP and the GPO are unpopular provisions of Social Security law among the public and some policymakers. Some observers point out that the way Social Security benefit reductions are computed under the WEP and the GPO seems arbitrary and unfair. Legislation is introduced routinely to modify or repeal these provisions.

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[38] In the regular benefit formula, the first replacement factor is 90%. In the windfall benefit formula, the first replacement factor is lowered from 90% to 40%.

[39] In the latter case, many years of zero earnings would be counted in the benefit computation. For Social Security purposes, these workers could have the same career-average earnings and therefore the same monthly benefit amount.

[40] For more information on the WEP, see CRS Report 98-35, *Social Security: The Windfall Elimination Provision (WEP)*, by Alison M. Shelton.

[41] For more information on the GPO, see CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*, by Alison M. Shelton.

In terms of administering these provisions, SSA must rely on self-reported data to determine if a person's Social Security retired-worker benefit should be reduced under the WEP, or if a person's Social Security spousal benefit should be reduced under the GPO, and what the Social Security benefit reduction should be under these provisions. In other words, a Social Security claimant or a current Social Security beneficiary must inform SSA that he or she is receiving a non-covered pension, and the amount of the non-covered pension, so that the WEP and the GPO can be applied in the Social Security benefit computation. Proposals have been made over the years to require state and local governments to provide information on their non-covered pension payments to SSA for purposes of administering the WEP and the GPO. President Obama's FY2012 budget request, for example, included up to $50 million for the development of a mechanism for SSA to enforce the WEP and the GPO and estimated that greater enforcement would result in Social Security program savings of almost $3.4 billion over 10 years.[42]

Mandatory Social Security coverage of newly hired state and local government employees would eventually eliminate the need for the WEP and the GPO, two provisions of Social Security law that are unpopular among the public and that present administrative difficulties for SSA.

Potential Impact on State and Local Pension Plans

Some state and local government pension plans could be affected if newly hired state and local government employees were required to participate in Social Security. In response to mandatory Social Security coverage, employers might change the pension benefits of newly hired public employees to reflect the added Social Security coverage. The basic options for state and local governments include (1) maintaining the current pension structure for newly hired employees; (2) providing a different, presumably lower, benefit structure for newly hired employees within an existing pension plan; (3) closing the existing pension plan to new participants and creating a new pension plan for newly hired employees with a different, presumably lower, benefit structure; and (4) eliminating pension benefits (apart from Social Security) for new hires.[43]

Most state and local government workers currently participate in defined benefit (DB) pension plans. In DB pension plans, participants are guaranteed a monthly benefit in retirement that is determined using a formula based on an accrual rate, years of service, and the average of a number of years' final salary.[44] In contrast, many private sector workers are covered by defined contribution (DC) pension plans. In DC pension plans, participants are provided with individual

[42] The President's Budget for Fiscal Year 2012, Analytical Perspectives, February 2011, p. 162, http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/spec.pdf. The lack of an enforcement mechanism for the WEP and the GPO also raises equity issues. Beneficiaries who do not accurately report their public pension information to SSA may receive higher benefits than they are due under current law. For more on equity, see the "Equity Considerations" section of this report.

[43] While state and local governments may change the benefit structure for new hires, some state and local governments have sought to implement changes to the pension structure of existing employees (see, for example, New Jersey P. L. 2011, Chapter 78, a summary of which is available at http://nj.gov/treasury/pensions/reform-2011.shtml). Some have argued that changes to current employee pensions may be subject to state constitutional challenges. For a discussion of these issues, see CRS Report R41736, *State and Local Pension Plans and Fiscal Distress: A Legal Overview*, by Jennifer Staman; and *Constitutional Contracts Clause Challenges in Public Pension Litigation*, by Paul M. Secunda, Marquette Law School Legal Studies Paper No. 11-06, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1806018##.

[44] An example of a typical formula in a DB pension plan would be: an accrual rate of 1.5% * number of years of service * average of final 3 years of salary. A participant who worked for 30 years and earned $30,000 per year in the last 3 years of service would receive a benefit of $13,500 per year in retirement (1.5% * 30 * $30,000). The benefit is typically paid as an annuity for the life of the retiree. Married participants may receive a joint-and-survivor annuity, which pays an actuarially equivalent amount for the longer of the lifetime of the retiree or the retiree's spouse.

accounts that accumulate employees' (and often employers') contributions and investment returns. Employees use the funds in their accounts as a source of income in retirement.

States would have to decide what pension benefits to offer new employees who would be covered by Social Security. Some of the changes that states and localities might consider include lowering the accrual rate for covered workers, increasing the number of high or final years of salary in the benefit formula, altering early retirement benefits, or creating defined contribution pensions. For example, one survey indicated that in 1997 the accrual rate for DB pensions provided to state and local government workers who were participating in Social Security at the time of the survey was 1.84%, compared with an accrual rate of 2.24% for workers who were not participating in Social Security.[45]

In some cases, state and local government employers might "freeze" their pension plans in which new hires or current employees do not accrue benefits. Plan sponsors have several types of pension freezes available. In a hard freeze, a pension plan is closed to new entrants and current participants cease accruing benefits. In a soft freeze, a pension plan is closed to new entrants but current participants continue to accrue benefits. Frozen pension plans remain subject to Internal Revenue Service rules that apply to state and local government pension plans. Bureau of Labor Statistics data from March 2009 indicated that 10% of state and local government workers who participated in a DB pension plan were in a frozen DB pension plan. The data indicated that 99% of the state and local government workers in frozen plans continued to accrue benefits; that is, the pension plan was a soft freeze. In addition, pension plans for 94% of workers in frozen plans were frozen more than five years prior to the survey, and 95% of the workers in frozen plans were offered a new DB pension plan. None of the workers in frozen DB pension plans were offered a new DC pension plan.[46]

Increased costs might come as a result of states operating several pension plans or several benefit structures within a single pension plan. For example, states could decide to offer some combination of DB and DC pension benefits. It could take several years to determine and fully implement the changes. Whether overall costs to employees and governments would increase, decrease, or remain the same depends on the type of pension benefit structure governments adopt in response to mandatory participation in Social Security. Factors that would affect this include the 6.2% Social Security payroll tax paid by employers, the 6.2% Social Security payroll tax paid by employees, the amount of employer contributions to retirement plans, and the amount of employee contributions, if any, to retirement plans.

Because the pension benefits (apart from Social Security) that the plans would provide to new employees would likely decrease, pension plan contributions made by employers, and possibly employee contributions, would likely decrease as well. The impact would likely be minimal in plans that have sufficient assets from which to pay 100% of the benefits that participants have accrued. However, the resulting decrease in contributions could add financial strain to pension systems that are currently underfunded and do not have sufficient assets on hand. For example, a plan that is underfunded and ceases to have new participants will find that plan assets will have been used up and that some benefits for some participants do not have a funding source. Sponsors of pension plans that are not fully funded would have to eventually make up for the funding shortfalls that exist within their plans. Although many state and local government pension plans

[45] See *The Impact of Mandatory Social Security Coverage of State and Local Workers: A Multi-state Review*, by Alicia Munnell, http://assets.aarp.org/rgcenter/econ/2000_11_security.pdf.

[46] See *National Compensation Survey: Employee Benefits in the United States*, March 2009, http://www.bls.gov/ncs/ebs/benefits/2009/ebbl0044.pdf.

do not have enough assets set aside to pay 100% of promised benefits, participants are not at risk of not receiving their promised benefits in the short or medium term as most pension plans have enough funds set aside to pay benefits for many years.[47]

Potential sources of funding to make up for shortfalls include state or local general revenues, increased contributions from current employees, and greater returns on pension plan investments. Currently, many states and localities are facing revenue shortfalls and may be reluctant to set aside funds to cover pension benefits payable several years in the future. It may be difficult or impossible to require increased employee contributions from current employees. Pension plan sponsors may be tempted to increase the riskiness of their investments to capture market gains. However, in the event of a market downturn, riskier pension fund investments would lose value, exacerbating the situation.

Unlike private-sector employers, state and local pension plans do not participate in a pension insurance system. Most private-sector employers participate in the Pension Benefit Guarantee Corporation (PBGC), which is a government run insurance company that pays pension benefits to retirees in bankrupt private-sector pension plans.[48] State and local pension plans do not have the opportunity to transfer pension plan liabilities to a PBGC-like entity if they cannot pay benefits.

State and Local Pension Plans and Funding Status

Census Bureau data indicate that in 2007 there were 2,547 state and local pension plans, of which 2,115 responded to a Census Bureau survey of state and local pension plans. As shown in **Table 4**, the 2,115 plans that responded to the survey had a total of 18.5 million participants.[49] Although most of these plans (1,897 plans or 89.7%) were local pension plans, statewide plans accounted for more than 90% of plan participants. Some plans were very large; however, most plans had relatively few participants. The average number of participants per plan was 8,755, while the median number of participants per plan was 43.[50]

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[47] Some economists have criticized the methodology that state and local government pension funds use to discount future benefit obligations. Alternative methodologies for discounting future benefit obligations indicate that the underfunding of state and local government pension funds may be greater than is currently estimated. For example, Joshua D. Rauh, an economist at Northwestern University, estimates that seven state pension funds may be insolvent by 2020. See *Are State Public Pensions Sustainable? Why the Federal Government Should Worry About State Pension Liabilities*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1596679. More information on the underfunding of pension plans is available in a May 2011 CBO Economic and Budget Issue Brief, *The Underfunding of State and Local Pension Plans*, http://www.cbo.gov/ftpdocs/120xx/doc12084/05-04-Pensions.pdf. In addition, a Brookings Institution report contains a discussion of the methodologies used to discount state and local government pension plan liabilities. See *State and Local Pension Funding Deficits: A Primer*, by Douglas J. Elliot, http://www.brookings.edu/~/media/Files/rc/reports/2010/1206_state_local_funding_elliott/1206_state_local_funding_elliott.pdf.

[48] For more information on the PBGC, see CRS Report 95-118, *Pension Benefit Guaranty Corporation (PBGC): A Fact Sheet*, by John J. Topoleski.

[49] The Census Bureau conducts a census of state and local pension plans in years ending with 2 or 7. In years not ending with 2 or 7, the Census Bureau conducts a survey of about 1,000 state and local pension plans. The Census Bureau public use data does not include sampling weights to adjust for non-response by pension plans. CRS analysis of the data indicates that all of the pension systems that did not respond to the 2007 Census of State & Local Government Public-Employee Retirement Systems were local plans and most of these were relatively small. The 2007 public use Individual Unit Data File has information on pension plans that cover 99.6% of participants in state and local pension plans. One advantage of using the public use data is that it allows for the calculation of median values of participants and asset holdings, which can be important in a discussion in which average values are much larger than median values.

[50] The Census Bureau data does not indicate which plans had Social Security-covered workers, non-covered workers, or a mix.

Table 4.State and Local Pension Plans in 2007

	Total Number of Plans	Number of Participants			Cash and Investment Holdings (thousands of dollars)	
		Total	Average	Median	Average	Median
State	218	16,768,128	76,918	10,205	$12,933,338	$1,448,620
Local	1,897	1,747,848	921	33	$286,643	$7,659
State and Local	2,115	18,515,976	8,755	43	$1,590,180	$10,539

Source: U.S. Census Bureau, 2007 Survey of State & Local Government Public-Employee Retirement Systems, public use data file.

Notes: The public use Individual Unit Data File does not include Census Bureau adjustments for the non-response of 432 local pension plans that contained 78,475 participants (or less than 1% of all state and local pension plan participants).

A common measure of the financial health of a DB pension plan is its funding ratio, which measures the adequacy of a DB pension plan's ability to pay promised benefits. The funding ratio is calculated as

$$\frac{\text{Value of Plan Assets}}{\text{Present Value of Plan Liabilities}}$$

A funding ratio of 100% indicates that the DB pension plan has set aside enough funds, if the invested funds grow at the expected rate of return or better, to pay all of the benefit obligations. Funding ratios that are less than 100% indicate that the DB pension plan will not be able to meet all of its future benefit obligations. **Table 5** details the funding ratios for 122 public pension plans in the Public Pension Plans Database, which was developed by the Center for State and Local Government Excellence and the Center for Retirement Research at Boston College.[51] The pension plans in the database cover approximately 90% of the participants in state and local government pension plans. Funding ratios varied considerably among the pension plans in the database. Among the 122 pension plans for which actuarial information is provided for 2009, the median funding ratio was 77.5%. Some pension plans were well-funded: in 2009, 11 of the 122 pension plans had funding ratios of 100% or greater. Nearly one-third of the pension plans (31.2%), which covered 24.0% of plan participants, had funding ratios of less than 70%.

Table 5.Distribution of State and Local Pension Plan Funding Ratios in 2009

Funding Ratio	Number of Plans	Percentage of Plans	Number of Active and Inactive Plan Participants	Percentage of Active and Inactive Plan Participants
100% or more	11	9.0%	1,306,976	8.5%
90% - 99.9%	11	9.0%	1,617,740	10.5%
80% to 89.9%	30	24.6%	5,302,151	34.3%
70% to 79.9%	32	26.2%	3,523,744	22.8%

[51] The Public Pension Plans Database contains a variety of information on 126 public pension plans; however, actuarial information on plan assets and plan liabilities is not available for four of the plans.

Funding Ratio	Number of Plans	Percentage of Plans	Number of Active and Inactive Plan Participants	Percentage of Active and Inactive Plan Participants
60% to 69.9%	25	20.5%	2,735,654	17.7%
Less than 60%	13	10.7%	980,215	6.3%

Source: CRS analysis of the Public Pension Plans Database, available at the Center for State and Local Government Excellence and the Center for Retirement Research at Boston College, http://www.slge.org/index.asp?Type=B_BASIC&SEC={6B5D32FD-C99D-41F7-9691-4F1B1D11452B}&DE={2FC4DEA5-E113-4C0E-822F-359297BF92C2}.

State Administrative Costs and Legal Issues

Some argue that mandating Social Security coverage for all public employees would impose significant administrative burdens on state and local governments. State and local governments would have to administer two different systems, one for existing non-covered employees and another for employees who are newly covered by Social Security, until there were no more pensioners under the original pension system. Additional costs would include communicating with employees and actuarial reviews.[52] SSA would also need to administer two systems for a while, one system for covered employees and a second system for remaining beneficiaries with pensions from non-covered employment who are subject to WEP or GPO reductions on their Social Security benefits.

State and local governments would need to negotiate extensively with employees and legislatures about the redesign of existing pension systems, in order to adapt existing plans to Social Security coverage. When Congress mandated Social Security coverage for new federal workers in 1983, the federal government enacted a new federal pension plan after three years. GAO has suggested that four years might be required to complete negotiations among legislatures and employee representatives about adapting existing plans to Social Security coverage.[53]

Others counter that states and localities already withhold workers' federal income taxes, so the additional administrative costs associated with payroll tax deductions would not be significant.

Opponents of mandatory coverage sometimes argue that mandated coverage would raise constitutional issues and might be challenged in court. GAO wrote in 1998, "we believe that mandatory coverage is likely to be upheld under current U.S. Supreme Court decisions."[54] (*A discussion of the potential legal issues associated with mandatory Social Security coverage is beyond the scope of this report.*)

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[52] The Segal Company, *Report on Universal Social Security Coverage of State and Local Workers,* July 2005, http://www.retirementsecurity.org/public/330.cfm.

[53] U.S. General Accounting Office (now called the Government Accountability Office), *Social Security: Implications of Extending Mandatory Coverage to State and Local Employees*, GAO/HEHS 98-196, August 1998, http://www.gao.gov/archive/1998/he98196.pdf.

[54] U.S. General Accounting Office (now called the Government Accountability Office), *Social Security: Implications of Extending Mandatory Coverage to State and Local Employees*, GAO/HEHS-98-196, August 1998, pp. 19-20, http://www.gao.gov/archive/1998/he98196.pdf.

Equity Considerations

Some argue that non-covered state and local government workers should share in providing the poverty reduction that occurs through the Social Security system, which offers disability benefits, dependents' benefits and survivors' benefits, in addition to retirement benefits. In June 2011, retired workers and their dependents accounted for 73% of total benefits paid. The remaining 27% was paid to disabled workers and their dependents (16% of total benefits paid) and to the survivors of deceased workers (11% of total benefits paid).[55] Social Security also redistributes income from workers with higher lifetime earnings to workers with lower lifetime earnings. According to data from BLS, state and local government workers have higher hourly earnings, on average, than the rest of the population.[56] To the extent that state and local government workers do not participate in Social Security, they do not share in providing the poverty reduction that occurs through Social Security. This places an extra burden on higher-earning workers within the Social Security system. According to the 1994-1996 Advisory Council on Social Security, "an effective Social Security program helps to reduce public costs for relief and assistance, which, in turn, means lower general taxes. There is an element of unfairness in a situation where ... a few benefit both directly and indirectly, but are excused from contributing to the program."[57]

A related argument is that non-covered workers do not share the ongoing costs related to the start-up of the Social Security program. When Social Security was created, the first beneficiaries—often the parents and grandparents of current state and local government employees—paid into the system for a short period and received benefits far in excess of their contributions. About 25% of today's Social Security payroll tax revenues (about 3 percentage points of the current 12.4% payroll tax) go to cover the implicit interest costs of these net transfers to the first beneficiaries.[58] Non-covered workers do not share in these costs, which are sometimes known as "legacy costs."

In addition, as noted above, CBO projects that mandatory Social Security coverage would increase the number of Social Security beneficiaries in the long term, though the additional benefit payments would be about half the size of the additional revenues. The reason, as explained by CBO, is that most of the newly hired state and local government employees would receive Social Security benefits under current law because they may have held other covered jobs in the past or they were covered by a spouse's employment.[59] Supporters of mandatory Social Security coverage argue that, if most non-covered state and local government employees will qualify for Social Security benefits under current law based on a second job or a spouse's employment, they should be required to pay into the Social Security system throughout their careers. Opponents of mandatory coverage maintain that Social Security benefit reductions under the WEP and the GPO already take into account that some workers participate in alternative public pension plans that operate outside of Social Security.

Opponents argue that Social Security coverage has been available to state and local governments since the early 1950s. Thus, many states and localities have had the opportunity to weigh the pros

[55] SSA, *Monthly Statistical Snapshot, June 2011* (released July 2011), Table 2, http://www.socialsecurity.gov/policy/docs/quickfacts/stat_snapshot/.

[56] Bureau of Labor Statistics, *National Compensation Survey: Occupational Earnings in the United States, 2009*, June 2010, Bulletin 2738, Table 1, http://www.bls.gov/ncs/ocs/sp/nctb1344.pdf.

[57] 1994-1996 Advisory Council on Social Security, *Report,* Vol. 1: Findings and Recommendations, Washington, DC, January 1997, p. 19, http://www.socialsecurity.gov/history/reports/adcouncil/report/toc.htm.

[58] Munnell 2005, http://crr.bc.edu/images/stories/Briefs/ib_32.pdf.

[59] CBO, *Reducing the Deficit: Spending and Revenue Options*, March 2011, pp. 171-172, http://www.cbo.gov/ftpdocs/120xx/doc12085/03-10-ReducingTheDeficit.pdf.

and cons of Social Security coverage. States and localities that have chosen not to participate in the Social Security system would likely view mandatory Social Security coverage as unfair.

Conclusion

The majority of state and local government employees are covered by Social Security (72.5% in 2008). Proposals to mandate Social Security coverage for all state and local government employees hired in the future have been part of the Social Security policy debate for many years. The underlying issues to consider in evaluating the potential advantages and disadvantages of mandatory Social Security coverage include Social Security's long-range financial status; benefit protections for workers and their families; the impact on states and localities that would be required to revise their public pension plans to incorporate a Social Security component; and a broader social perspective.

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Disclaimer